

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL NO. 1:00-CR-33-1
(KLEEH)

DARUS ZEHRBACH,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 583] AND
DENYING PRO SE MOTION [ECF NO. 572]

On January 13, 2023, Defendant Darus Zehrbach ("Defendant") filed a pro se motion to compel [ECF No. 572]. Pursuant to 28 U.S.C. § 636 and the local rules, the Court referred the motion to United States Magistrate Judge Michael J. Aloï (the "Magistrate Judge") for a report and recommendation. On March 3, 2023, the Magistrate Judge entered a Report and Recommendation ("R&R"), recommending that the Court deny the motion.

The R&R informed the parties that they had fourteen (14) days from the date of service of the R&R to file "specific written objections identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection." It further warned them that the "[f]ailure to file written objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals." Defendant accepted service of the

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R&R on March 13, 2023. To date, no objections have been filed.

When reviewing a magistrate judge's R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, "the Court may adopt, without explanation, any of the magistrate judge's recommendations" to which there are no objections. Dellarcirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Because no party has objected, the Court is under no obligation to conduct a de novo review. Accordingly, the Court reviewed the R&R for clear error. Upon careful review, and finding no clear error, the Court **ADOPTS** the R&R [ECF No. 583]. Defendant's pro se motion to compel is **DENIED**. To the extent that Defendant sought an explanation and an accounting, the motion is **DENIED AS MOOT**.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record via email and the pro se Defendant via certified mail, return receipt requested, at the last known address as shown on the docket.

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ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 583] AND
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DATED: March 31, 2023

A handwritten signature in black ink, appearing to read "Tom S. Klee".

THOMAS S. KLEE, CHIEF JUDGE
NORTHERN DISTRICT OF WEST VIRGINIA